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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
N.D. CALIF. SAN JOSE

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DANA PASQUALE,

Plaintiff,

v.

WELTMAN, WEINBERG & REIS,

Defendant.

Case No.: **CV 11-02574**

) COMPLAINT AND DEMAND FOR
) JURY TRIAL
)
) (Unlawful Debt Collection Practices)
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VERIFIED COMPLAINT

DANA PASQUALE (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges the following against WELTMAN, WEINBERG & REIS (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 et seq. (RFDCPA).
3. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, insurers, and attorneys.

JURISDICTION AND VENUE

4. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
5. Defendant conducts business and is located in the state of California, and therefore, personal jurisdiction is established.
6. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

7. Plaintiff is a natural person residing in San Jose, Santa Clara County, California.
8. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)* and *Cal. Civ. Code § 1788.2(h)*.
9. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)* and *Cal. Civ. Code § 1788.2(c)*, and sought to collect a consumer debt from Plaintiff.
10. Defendant is a national corporation with a business office located in Santa Ana, California

FACTUAL ALLEGATIONS

11. Defendant placed collection calls to Defendant seeking payment for an alleged debt.
12. Defendant called Plaintiff and failed to identify itself as a debt collector when leaving voicemail messages for Plaintiff as Defendant did not indicate that it was an attempt to collect a debt. *See Exhibit A.*
13. Defendant told Plaintiff to call back telephone number (800) 286-9403 when leaving voicemail messages for Plaintiff. *See Exhibit A.*

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

14. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication was from a debt collector.

WHEREFORE, Plaintiff, DANA PASQUALE, respectfully requests judgment be entered against Defendant, WELTMAN, WEINBERG & REIS, for the following:

15. Statutory damages of \$1000.00, pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k;

16. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k; and

17. Any other relief that this Honorable Court deems appropriate.

COUNT II
DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

18. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as the allegations in Count II of Plaintiff's Complaint.

19. Defendant violated the RFDCPA based on the following:

- a. Defendant violated the §1788.17 of the RFDCPA by continuously failing to comply with the statutory regulations contained within the FDCPA, 15 U.S.C. § 1692 et seq., as set forth in paragraph 14 above.

WHEREFORE, Plaintiff, DANA PASQUALE, respectfully requests judgment be entered against Defendant, WELTMAN, WEINBERG & REIS, for the following:

20. Statutory damages of \$1000.00, pursuant to the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788.30(b);

1 21. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection
2 Practices Act, *Cal. Civ Code § 1788.30(c)*; and

3 22. Any other relief that this Honorable Court deems appropriate.

4 **DEMAND FOR JURY TRIAL**

5 PLEASE TAKE NOTICE that Plaintiff, DANA PASQUALE, demands a jury trial in
6 this cause of action.

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8 RESPECTFULLY SUBMITTED,

9 DATED:

KROHN & MOSS, LTD.

10 By: 

11 Christopher Addy
12 Attorney for Plaintiff
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VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF CALIFORNIA

Plaintiff, DANA PASQUALE, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, DANA PASQUALE, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: 4-25-2011



DANA PASQUALE

EXHIBIT A

Dana Pasquale v. Weltman, Weinberg & Reis
Transcribed Voicemails

We are calling from Weltman, Weinberg & Reis with a very important message for Dana C. Pasquale. Upon receipt of this message please contact Weltman, Weinberg & Reis at 1-800-286-9403. If you believe you have received this call in error, please contact Weltman, Weinberg & Reis at 1-800-286-9403. Thank you.

We are calling from Weltman, Weinberg & Reis with a very important message for Dana C. Pasquale. Upon receipt of this message please contact Weltman, Weinberg & Reis at 1-800-286-9403. If you believe you have received this call in error, please contact Weltman, Weinberg & Reis at 1-800-286-9403. Thank you.

This message here is for Dana Pasquale. My name is Cory, I am with the Law Office of Weltman, Weinberg & Reis. Could you please return my call, my number is 800-286-9403, my extension is 6920. Thank you.

We are calling from Weltman, Weinberg & Reis with a very important message for Dana C. Pasquale. Upon receipt of this message please contact Weltman, Weinberg & Reis at 1-800-286-9403. If you believe you have received this call in error, please contact Weltman, Weinberg & Reis at 1-800-286-9403. Thank you.